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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,113	09/20/2006	Eric Jonsen	US040147US	1777

28159 7590 02/18/2010

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
BEHRINGER, LUTHER G	

ART UNIT	PAPER NUMBER
3766	

MAIL DATE	DELIVERY MODE
02/18/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/599,113	JONSEN ET AL.	
	Examiner	Art Unit	
	Luther G. Behringer	3766	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 February 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *9-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *9-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *20 September 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the communication received on 02/01/2010 concerning application no. 10/599113 filed on 09/20/2006.

2. Upon further review, the examiner is withdrawing the finality of the rejection of the last Office action.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claim(s) 9 – 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tay (US 5,984,102)**.

With regard to **claims 9 and 10**, Tay discloses an electrode system comprising: a pair of electrodes, **128 & 129**, disposed on opposite sides of a release liner, **136**, from which the electrodes may be removed, wherein each electrode comprises an electrode body having first, **130 & 133**, and second sides, **137**, wherein the first side comprises a flexible, non-conductive moisture barrier layer having a sealable periphery and the second side comprises a conductive layer (Col. 5, l. 66 – Col. 6, l. 14), and an electrically conductive gel layer, **131**, interposed between the conductive layer and the non-conductive release liner in a vapor, air and/or moisture proof enclosure formed by the sealing of the periphery of the moisture barrier layer of each electrode to the release liner to enclose the gel layer of each electrode in a moisture barrier enclosure on its respective side of the rigid release liner (Figs. 13 and 14, reproduced below).

Fig. 13

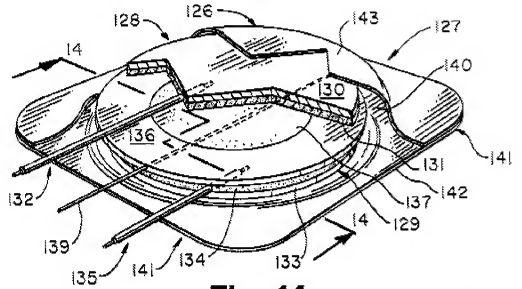
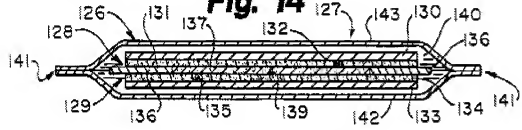


Fig. 14



5. Tay discloses the claimed invention except for a rigid non-conductive release liner. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a rigid non-conductive release liner, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin,* 125 USPQ 416.

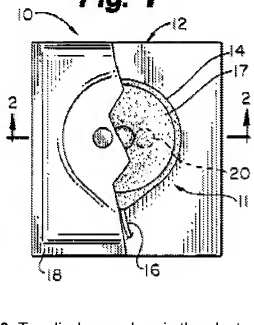
Further regarding **claim 10,** Tay discloses wherein the electrodes are further in electrical contact with each other through a conductive element, **139**, that is disposed

within the non-conductive release liner and which is in electrical contact with both electrodes through said gel layer (Fig. 13, above).

With regard to **claim 11,** Tay discloses wherein each electrode further comprises a lead wire, **132 & 135**, that is connected through said first side to said second side of the electrode and which electrically connects the electrode to a medical device (Fig. 13).

Regarding **claim 12,** Tay discloses wherein the lead wire is electrically connected to the conductive layer and the electrically conductive gel by a connector comprising a rivet, ring tung terminal, staple, grommet, screw, bolt, or other electrically conducting fastening means, *see the fastener located along line 2*, that extends from the flexible non-conductive release liner through the conductive layer (Fig. 1).

Fig. 1



With regard to **claim 13,** Tay discloses wherein the electrode further comprises an insulation layer, *resistive layer* **137**, interposed between a portion of the conductive

layer and the non-conductive release liner, **136**, wherein the insulation layer protects an operator of the electrode from physical contact with the connector which is electrically connected to an electrical source (Figs. 13 and 14).

Regarding **claim 14,** Tay fails to disclose wherein the non-conductive release liner comprises a polymeric sheet, coated paperboard, or foam.

6. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the electrode package as taught by Tay, with a polymeric sheet, coated paperboard or foam release liner since it is well known in the art that such materials allow for quick opening and application of defibrillator electrodes. In the instant case, the examiner is citing Keusch (US 4,989,607: Col. 14, ll. 35 – 39) as one example.

With regard to **claim 15,** Tay fails to disclose wherein the non-conductive release liner comprises a material treated with an adhesion-reducing agent comprising a surface-treated polymeric sheet comprising siliconized polyethylene, polypropylene, polyester, acrylate, polycarbonate, or wax or plastic coated paperboard or foam

7. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the electrode package as taught by Tay, with a adhesion reduction agent since it was known in the art that such materials allow for quick opening and application of defibrillator electrodes. In the instant case, the examiner is citing Keusch (US 4,989,607: Col. 3, ll. 27 – 34) as one example.

Regarding **claim 16,** Tay fails discloses wherein the conductive layer comprises a laminate comprising tin foil and polyester.

8. Tay discloses the claimed invention except for creating the conductive layer having a tin foil and polyester laminate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a conductive sheet having a tin foil and polyester laminate, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin,* 125 USPQ 416.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luther G. Behringer whose telephone number is (571)270-3868. The examiner can normally be reached on Mon - Thurs 9:00 - 6:30; 2nd Friday 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Layno can be reached on (571) 272-4949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766

/Luther G Behringer/
Examiner, Art Unit 3766